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10/534,679	11/22/2005	Raffaele Pera	18034-015US1	7425

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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER
WRIGHT, BRYAN F

ART UNIT	PAPER NUMBER
2131	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>22 November 2005</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-21</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-21</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>12 May 2005</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All   b)☐ Some * c)☐ None of:

      1.☒ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>5/12/2005</u>.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

DETAILED ACTION

1.   This action is in response to the original filing of November 22, 2005. Claims (1-

21) are pending and have been considered below.

Priority

2.   Applicant's claim for benefit of foreign priority under 35 U.S.C. 119 (a) - (d) is

acknowledged.

The application is filed on November 22, 2005 but is a 371 case of

PCT/EP03/12826 application filed 11/13/2003 and has a foreign priority application filed

on 11/15/2002.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3.   Claims 1, 3-12, 15-17, and 20 are rejected under 35 U.S.C. 102(e) as being

anticipated by Steinrisser et al (US Patent No. 7, 376,934 and Steinrisser hereinafter).

4.   As to claim 1, Steinrisser teaches a **control system of an electronic instrument for metrological measurements, comprising:**

        a handling application (i.e., application program) **operable to control the instrument** (i.e., … teaches an application program comprising one or more processes being executed by the measuring instrument [col. 3, lines 22-26]);

        and a control application (i.e., software module) **operable to verify integrity of said handling application** (i.e., …. teaches a computer aided validation of application program [col. 9, lines 55-60]), **said control application operable to generate a certification code** (i.e., designation) **for the handling application in response to verifying that the integrity is maintained** (i.e., teaches maintain a designation for purposes of indicating successful application validation [col. 6, lines 55-67]).

5.   As to claim 3, Steinrisser teaches a **control system where said control application and said handling application are communicably coupled via a network** (i.e., … teaches a network configuration providing interfacing capability [col. 9, lines 59-67]).

6.   As to claim 4, Steinrisser teaches a **control system characterized in that it includes a dynamic library associated with said handling application, which, at the start of a handling application, activates said control application** (i.e., … teaches a system for a application program executed by measuring instrument [col. 3,

lines 20-30]. Those skill in the art would recognize a link library is a system file which enables the execution of a application. The link library must be local to the computing environment for execution of application).

7.   As to claim 5, Steinrisser teaches a **control system where said dynamic library is locally stored** (i.e., … teaches a system for a application program executed by measuring instrument [col. 3, lines 20-30]. Those skill in the art would recognize a link library is a system file which enables the execution of a application. The link library must be local to the computing environment for execution of application).

8.   As to claim 6, Steinrisser teaches a **control system where said dynamic library is situated in said central processing unit** (i.e., … teaches a system for a application program executed by measuring instrument [col. 3, lines 20-30]. Those skill in the art would recognize a link library is a system file which enables the execution of a application. The link library must be local to the computing environment for execution of application).

9.   As to claim 7, Steinrisser teaches a **control system where said univocal code** (i.e., validation designation) **is obtained using a cryptography algorithm** (e.g., encryption/decryption) (i.e., … teaches a validation designation scheme using a encryption/decryption method with a private key [col. 6, lines 65-67; col. 7, lines 1-10]).

10. As to claim 8, Steinrisser teaches a **method for monitoring an electronic instrument for metrological measurements, comprising:**

receiving information associated with a handling application for the instrument and locally stored (i.e., teaches a measuring instrument for which receives maintains application program [col. 3, lines 55-63] Application being executed on measuring instrument [col. 3, lines 15-27]);

and issuing (i.e., setting) **a certification code** (i.e. flag) **associated with the handling application based on the information and operable to indicate that integrity of the handling application has been maintained** (i.e., ... teaches setting a flag or embedding a key such that the validation (i.e., integrity) of said application is indicated [col. 6, lines 60-67; col. 7, lines 1-6]).

11. As to claim 9, Steinrisser teaches a **method where producing a code includes processing said information using a cryptography algorithm** (i.e., ... teaches a encryption methodology inclusive to the validation process [col. 7, lines 1-10]).

12. As to claim 10, Steinrisser teaches a **method where the received information comprises an authenticity** (i.e., validate) **certificate of the handling application** (i.e., ... teaches setting a flag or embedding a key such that the validation (i.e., integrity) of said application is indicated [col. 6, lines 60-67; col. 7, lines 1-6]).

13.   As to claim 11, Steinrisser teaches a **method where the received information comprises an acknowledgment code** (i.e., key) **of said local unit** (i.e., ... teaches embedding a key [col. 6, lines 65-67; col. 7, lines 1-10] Acknowledgement as cited in applicant's specification is the ability of the device to differentiate software integrity).

14.   As to claim 12, Steinrisser teaches a **system where the controller is further operable to generate an alert** (i.e., display change) **in response to determining a violation of the integrity** (i.e., rule non-compliancy) **of the handling application** (i.e., ... teaches indicating proposed changes to user via a display change after a unsuccessful validation [col. 6, lines 40 -50]).

15.   As to claim 15, Steinrisser teaches a **system where the controller is further operable to verify whether a certification** (i.e., electronic record) **associated with the handling application is valid** (i.e., ... teaches the validation purposes comprises validating electronic record and electronic signature [col. 8, lines 5-10]).

16.   As to claim 16, Steinrisser teaches a **system where the certification is verified using a digital signature (**i.e., ... teaches the validation purposes comprises validating electronic record and electronic signature [col. 8, lines 5-10]).

17.   As to claim 17, Steinrisser teaches a **method further comprising: determining a violation of the integrity of the handling application** (i.e., ... teaches detecting

application violates rule-set [col. 6, lines 15-20]; **and generating an alert in response**

to the violation (i.e., … teaches a screen change designating corrective measures for

violation [col. 6, lines 35-50]).

18.   As to 20, Steinrisser teaches a **method further comprising generating a**

stamp (i.e., designation) **indicating that the integrity of the handling application is**

verified (i.e., ... teaches setting a flag or embedding a key such that the validation (i.e.,

integrity) of said application is indicated [col. 6, lines 60-67; col. 7, lines 1-6]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

19.   Claims 2, 13, 14, 18, 19 and 21 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Steinrisser in view of McCarroll (US Patent Publication No.

2003/0196102).

20.   As to claims 2, 13, and 14, the system disclose by Steinrisser shows substantial

features of the claimed invention (discussed in the paragraphs above), It fails to

disclose:

A control system where said code is associated with a stamp comprising

an issuing date of said stamp (82), a reference code of the metrological

measurement instrument, and a barcode (83) corresponding to

said code (claim 2).

A system where the violation comprises an unregistered modification of

the handling application (claim 13).

A **system where the controller is further operable to prevent the handling**

application from operating in response to determining the violation (claim

14).

However, these features are well known in the art and would have been an obvious

modification of the system disclosed by Steinrisser as introduced by McCarroll.

McCarroll discloses:

A control system where said code is associated with a stamp comprising

an issuing date of said stamp (82), a reference code of the metrological

measurement instrument, and a barcode (83) corresponding to

said code (claim 2) (for purposes software verification McCarroll maintain the

ability to produce serial number (i.e., barcode corresponding to code) [par.43] .

The modification of Steinrisser with McCarroll affords digital certificate capability

for which provides information relative to the identity of the author (i.e., reference

code) and date on which the software was registered (i.e., issuing date of stamp)

[par. 35]).

A system where the violation comprises an unregistered modification of

the handling application (claim 13) (for purposes of unregistered modification

McCarroll provides a methodology capabile determining code that has been

improperly modified [par. 32]. As such combining said methodology with

Steinrisser teaching of measuring instrument compliance verification process

such that a unregistered modification of a application will be detectable)

A system where the controller is further operable to prevent the handling

application from operating in response to determining the violation (claim

14) (for purposes of rendering a violation McCarroll provides the methodology to prevent a application from operating subsequent of the render violation [f216, fig. 2a]).

Therefore, given the teachings of McCarroll, a person having ordinary skill in the art at the time of the invention would have recognized the desirability and advantage of modifying Steinrisser by employing the well known features of application modification detection disclosed above by McCarroll, for which application integrity will be enhanced [par. 32].

21.   As to claims 18 and 21, the system disclose by Steinrisser shows substantial features of the claimed invention (discussed in the paragraphs above), It fails to disclose:

A method further comprising preventing the handling application from operating in response to determining the violation (claim 18)

A method where the information is received at the start of the handling application (claim 21).

However, these features are well known in the art and would have been an obvious modification of the system disclosed by Steinrisser as introduced by McCarroll. McCarroll discloses:

A method further comprising preventing the handling application from operating in response to determining the violation (claim 18) (for purposes of rendering a violation McCarroll provides the methodology to prevent a application from operating subsequent of the render violation [f216, fig. 2a].

A method where the information is received at the start of the handling application (claim 21) (for purposes of information received at the start McCarroll illustrates receiving code (i.e., application) [204, fig. 2a]).

Therefore, given the teachings of McCarroll, a person having ordinary skill in the art at the time of the invention would have recognized the desirability and advantage of modifying Steinrisser by employing the well known features of application modification detection disclosed above by McCarroll, for which application integrity will be enhanced [par. 32].

22.   As to claim 19, Steinrisser teaches a **method further comprising: and generating an alert** (i.e., screen change) **in response to the determining the invalidity**(i.e., … teaches a screen change designating corrective measures for violation [col. 6, lines 35-50]).

However Steinrisser does not expressly teach:

determining that a certification associated with the handling application is

invalid;

However, these features are well known in the art and would have been an obvious

modification of the system disclosed by Steinrisser as introduced by McCarroll.

McCarroll discloses:

determining that a certification associated with the handling application is

invalid (for intent to determine invalidity of application McCarroll provides the

methodology of measuring tamper-resistance [par. 35])

Therefore, given the teachings of McCarroll, a person having ordinary skill in the art at

the time of the invention would have recognized the desirability and advantage of

modifying Steinrisser by employing the well known features of measuring application

tamper-resistance using a certificate disclosed above by McCarroll, for which

application validation will be enhanced [par. 35].

Contact Information

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to BRYAN WRIGHT whose telephone number is (571)270-

3826. The examiner can normally be reached on 8:30 am - 5:30 pm Monday -Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, AYAZ Sheikh can be reached on (571)272-3795. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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published applications may be obtained from either Private PAIR or Public PAIR.

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BRYAN WRIGHT/
Examiner, Art Unit 2131
/Ayaz R. Sheikh/
Supervisory Patent Examiner, Art Unit 2131